

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 112 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAMESHBHAI R SOLANKI

Versus

STATE OF GUJARAT

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Appearance:

MR KS ACHARYA for Petitioner

MR. LR POOJARI, LD. GOVT. COUNSEL Respondents.

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 13/08/97

ORAL JUDGEMENT

The petitioner before me came to be appointed as a driver-cum-peon under the letter of appointment dated March 31, 1981 by the respondent no. 2 Superintendent, Land Records, Ahmedabad for a period of 29 days. But after the above said period of 29 days was over the petitioner came to be continued in the service by the known method of artificial break of one day every month. In other words, the petitioner came to be continued in

service for a pretty long time on the basis of the orders of appointment for a period of 29 days. The petitioner was obliged to file the present petition for issuance of an appropriate writ or direction to the respondents not to terminate his services and for further writ or direction to the respondents to accept the petitioner on regular cadre of peon-cum-driver.

2. However, the say of the respondents in the affidavit-in-reply is that the name of the petitioner was not sponsored by the Employment Exchange and that certain names were called for by the respondents for regular employment and during that period the petitioner was continued in work. But on all the occasions his appointment was for a period of 29 days only. It is also contended in the affidavit-in-reply that the petitioner wants to have back door entry in the regular cadre by way of filing the present petition.

3. It is not in dispute that first appointment for a period of 29 days came to be given to the petitioner under the letter of appointment dated March 31, 1981. The other aspect which requires to be taken into consideration is that even today when the present petitioner comes before me for final hearing in the year 1997 he continues to work with the respondent no. 2.

4. It is indeed true that initially appointments were for a period of 29 days. But the appointment letter dated January 11, 1982 requires careful consideration. This appointment order says that the petitioner was being employed right from 1981 purely on temporary basis and that also always for a limited period of one month. This letter of appointment further says that the respondent no. 2 is of the opinion that the petitioner has got necessary qualification and ability to work as a driver and therefore he is being appointed on the post of driver-cum-peon purely on temporary basis till further orders. It is also stated as one of the terms of the appointment that if the petitioner in future wants to be relieved from the job he shall have to give a notice in writing of one month. There is no doubt about stipulation in this order that his services could be terminated and he could be relieved from the services at any time if his services are no more required by the respondent no. 2. But from this letter of appointment it is abundantly clear that there has been deviation in the attitude of the respondent no. 2. Previously, on all occasions the petitioner was being appointed for a period of 29 days only. But under the order of appointment dated January 11, 1982 he has been appointed

purely on temporary basis but his appointment is till further orders.

5. In view of this, it appears that that the case of the petitioner for his appointment on regular establishment requires to be considered. I, therefore, direct the respondents to consider the case of the petitioner in the light of the aforementioned observations. The petition is allowed to this extent and rule is made absolute accordingly to the said extent only with no order as to costs. The case of the petitioner shall have to be considered by the respondents as early as possible and at any rate within a period of four months from the date of receipt of the writ of the present orders or receipt of the certified copy of the present orders which could be presented by the petitioner. D.S. is permitted.

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JVSatwara.